

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7548 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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RAKHYA JESANG HUMBAL

Versus

STATE OF GUJARAT

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Appearance:

MR YS MANKAD for Petitioner

Mr.S.P.Dave,Ld.Govt. Counsel for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 29/01/97

ORAL JUDGEMENT

Rule. Ld. Govt. Counsel Mr. S.P.Dave waives  
service of the rule.

The dispute pertains to the grant of lease for  
the purpose of salt manufacture. The petitioner before

me had made the necessary application for the grant of lease of land for the purpose of salt manufacture. It appears that, after the papers were processed, the prayer of the petitioner came to be recognised. Annexure-B is the order under which there has been the lease of land for a stipulated period of twenty years. After the above said orders, the lease agreement came to be executed and the petitioner came to be put in possession of the land in dispute under a panchanama. All of a sudden a third party, namely Shri. Jeshand Sadha Zaru had filed the appeal before the Collector, Kachchh, saying that the above said grant of lease in favour of the petitioner is illegal and requires to be set at naught. Under a brief order dated December 24, 1992, Collector, Kachchh was pleased to remand the matter to Ld. Assistant Collector for the decision, according to law and on merits. Ld. Assistant Collector under the orders dated June 01, 1994, was pleased to come to the conclusion that the petitioner has got agricultural lands admeasuring about 34 Acres and that, the above said holding would be sufficient enough to earn livelihood therefrom, and therefore he would not be entitled to have the lease of land for the purpose of salt manufacture. This orders have become final and therefore the present petition before this Court.

When a reference is made to the orders passed by the Collector, Kachchh dated December 24, 1992, it appears that, there was the G.R. dated December 31, 1981 in the contemplation and that, therefore the matter came to be remanded. Unfortunately the Ld. Assistant Collector, Anjar had preferred to decide the matter by one line order, saying that, the petitioner has got agricultural lands admeasuring about 34 acres, and therefore, he would not be entitled to have the lease of land for the purpose of salt manufacture. It appears that, Ld. Assistant Collector, Anjar has not made the necessary inquiries under the remanded proceedings. The whole matter, it appears, came to be decided in a cavalier fashion. The only possible course open to this Court is to set aside the above said orders and other orders under which the said orders came to be confirmed and to remand the matter to Ld. Assistant Collector, Anjar to decide the matter afresh according to law and on merits. The petition requires to be granted to the above said extent. The same is hereby accordingly done. The orders in challenge are hereby set aside and the matter is remanded to Ld. Assistant Collector, Anjar, to decide it afresh, after affording a reasonable opportunity of being heard to all concerned and to deduce evidence, both oral and documentary, if they want to do so. The remanded proceedings should be decided within a period of

four months from the date of receipt of the writ of the present orders. Rule is made absolute to the above said extent only, with no order as to cost.

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